

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

REDI-MIX SOLUTIONS, LTD.,
2S TRANSPORT, LLC,

Plaintiffs,

v.

EXPRESS CHIPPING, INC., STANLEY
KEITH KNOX,

Defendants.

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CIVIL ACTION NO. 6:16-CV-00298-RWS

**ORDER ADOPTING REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of Defendants' Motions for Summary Judgment, has been presented for consideration. The Report and Recommendation (Docket No. 63) filed on August 24, 2017 recommends (1) that the claims of Plaintiff 2S Transport, LLC f/k/a H&S Transport, Ltd. ("H&S") be dismissed pursuant to the Fourth Amended Complaint and FED.R.CIV. P. 41(a)(2) and (2) that Stanley Keith Knox's Motion & Notice of Motion for Summary Judgment (Docket No. 55) and Express Chipping, Inc.'s Motion & Notice of Motion for Summary Judgment (Docket No. 56) be granted as to the claims of Redi-Mix and denied as moot as to the claims of H&S. Docket No. 63 at 16. No objections have been filed. Accordingly, the Court reviews the Magistrate Judge's Report and Recommendation for clear error. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

After reviewing the Report, pleadings, and record in this matter, the Court concludes that the Magistrate Judge did not clearly err in finding that the motions for summary judgment as to H&S should be denied as moot because H&S is no longer a party to this action pursuant to the Fourth Amended Complaint. The Magistrate Judge also did not err in finding that the claims against Knox should be dismissed for lack of record evidence relating to damages and breach of contract and that the claims against Express Chipping should be dismissed for lack of record evidence supporting either a tortious interference claim or respondeat superior liability. The Court therefore **ADOPTS** the findings and conclusions of the Magistrate Judge as those of the Court. In light of the foregoing, it is

ORDERED that the claims of 2S Transport, LLC f/k/a H&S Transport, Ltd are **DISMISSED** pursuant to the Fourth Amended Complaint and FED.R.CIV.P. 41(a)(2). It is further

ORDERED that Stanley Keith Knox's Motion & Notice of Motion for Summary Judgment (Docket No. 55) and Express Chipping, Inc.'s Motion & Notice of Motion for Summary Judgment (Docket No. 56) are **GRANTED** as to the claims of Redi-Mix Solutions, Ltd. and **DENIED** as moot as to the claims of 2S Transport, LLC f/k/a H&S Transport, Ltd. It is finally

ORDERED that any motion not previously ruled on is **DENIED**.

SIGNED this 14th day of September, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE